

Legislative Assembly Debate on Hunger Strike of Bhagat Singh and his Comrades

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The trial of Bhagat Singh and his 24 associates, which is known as Lahore Conspiracy Case¹, is one of the landmark trials of India. Bhagat Singh and his comrades made constant efforts to use this trial for the purpose of propaganda. Docks, for them were a platform, from which they addressed the nation. The epic hunger strike of Bhagat Singh and his comrades was one of the factors that kept this trial alive in the popular imagination of India for long time. Twice did, Bhagat Singh and his comrades resorted to hunger strike, for the betterment of the plight of political prisoners. During the course of first hunger strike which they resorted to from 15th June 1929² to 4th October 1930³, a juncture came when the British Government of India tried to make a very draconian change in the Criminal Procedure Code of India. Had they succeeded in it, the whole Criminal Procedure would have been jeopardized. The entire opposition in the Legislative Assembly put up a united resistance and defeated the Bill, which was officially named Criminal Law Amendment Bill, but was popularly known as the Hunger Strike Bill. It was so known because the public rightly perceived this Bill to have been brought about, to break the hunger strike of Bhagat Singh and his comrades. But it actually intended far more damages, i.e. changes in the Criminal Procedure, which were correctly sensed by India leaders and they forced Government to withdraw the Bill.

The Bill intended to change section 540 of Criminal Procedure Code, which would have made it possible for prosecution to conduct a trial in absence of the accused, if in the opinion of the court his absence was the result of his willing action. Bhagat Singh and his comrades were subsequently tried in their absence, because special provisions were made for Lahore Conspiracy Case through Ordinance III of 1930. Had the Government succeeded in getting the Hunger Strike Bill passed, the exception which was made through the Ordinance III of 1930, would have become a norm and Government could have dispensed with the attendance of accused in any case where the agitating behaviour of the accused could be perceived as a hindrance in trial. Whether the cause of agitation was justified or not, would not have mattered. The cause of the hunger strike of Bhagat Singh and his comrades was fully justified. They were demanding humane living conditions for political prisoners and an end to racial discrimination in the Indian jails. During the debate in Legislative Assembly the Government members tried their best to prove that hunger strike of Bhagat Singh and his comrades was just a dilatory tactic to avoid justice and that the Bill an urgent requirement of situation. But the Indian leaders overwhelmingly denied this allegation and firmly held that Bhagat Singh and his comrades were fighting for a genuine cause and were not

¹ The Case of Bhagat Singh and his comrades in particular terms is called second Lahore Conspiracy Case, as the Government had earlier also named the case of the prisoners of Ghadar Movement as Lahore Conspiracy Case.

² National Archives of India, New Delhi, Home Political, File Number 36/4 of the year 1930

³ The Tribune, Lahore, October 6, 1930

adopting any dilatory tactics. They opposed such sweeping changes, as proposed by the Bill, in the Criminal Justice System on the basis of a single case.

The proceedings of the Lahore Conspiracy Case were started on 10th July 1929, in the court of Special Magistrate Shri Krishan. Bhagat Singh and B.K. Dutt were already convicted by the Sessions Court Delhi in the Assembly Bomb Case and were on hunger strike since 15th June 1929. Their co-accused in Lahore Conspiracy Case too joined the Hunger Strike on 13th July 1929. The way Bhagat Singh and his comrades were using the court room as a platform to propagate their ideas had made bureaucracy apprehensive. Director Intelligence Bureau, D. Petrie, in his note to the Home Department, wrote about Lahore Conspiracy Case, “Unless something can be done to speed up and to improve the conduct of proceedings the whole trial is bound to be productive of far more evil than good.”⁴ The Lahore Conspiracy Case was anyhow bound to be prolonged one due to large number of witnesses to be produced by the prosecution. But the repeated adjournments of the trial due to inability of hunger strikers to attend the court, provided the Government a much needed pretext to push for Hunger Strike Bill.

The question of proceeding on with the trial in absence of the accused came up first on 15th July 1929, when Battukeshwar Dutt could not be brought to the court due to weakness of hunger strike. The Government advocate requested the Special Magistrate to dispense away with the attendance of Dutt under sub-section (1) of the section 540-A of Criminal Procedure Code, which laid that if more than two accused were involved in the case or an enquiry, the Judge if he is satisfied for reasons to be recorded that one or more accused is or are incapable remaining before the court, he may, if such accused are represented by the counsel, dispense with the attendance of accused.... he could at any subsequent stage direct the accused for personal attendance. On the orders of the Court Amar Nath the counsel of Dutt went to meet him in jail and conveyed to the court on his return that his client had not granted him permission to represent him in his absence. Hence the case was adjourned on that day.⁵

The public prosecutor on 22nd July 1929 moved High Court demanding a ruling on the question whether or not an accused can be represented against his will, on government expenses. He pleaded that this procedure is not clearly laid down in Criminal Procedure Code and there is no ruling of any High Court which might have clarified the point. He further said that, “If an accused can not be present during a part of the commitment proceeding, but was represented against his will, that would not be such an irregularity to vitiate the proceedings.” Justice Broadway to this point made a very damaging comment that, “It is one thing to condone an irregularity but another thing to authorise a Magistrate to commit one.”⁶ The order on the was reserved.

Despite such a hard line adopted by the High Court the Government was bent upon dispensing with the attendance of the accused hence on 24th July 1929 the Special Magistrate Sri Krishan, citing 540-A of Criminal

⁴ National Archives of India, New Delhi, Home Political File No 172 of 1930

⁵ ਈਕ ਓਗਜਲਚਅਕ, Lahore, ਬਚ;ਖ 16, 1929

⁶The Tribune, Lahore, July 24, 1929, Lahore

Procedure Code, ordered to dispense away with the attendance of 5 accused, who were absent that day. Bhagat Singh on behalf of all the accused stated that, “Proceeding would be reduced to a farce if they were continued behind their backs and their attendance in court was dispensed with without their consent.” All the accused present in the court, objected to the accused being represented by their counsels in their absence, and all except Des Raj withdrew their counsels.⁷

The High Court on July 26, 1929 rejected the plea of Public Prosecutor of Lahore Conspiracy Case. While rejecting the plea judges Shadi Lal and Broadway ruled that court had no power to appoint a pleader for an accused person who did not want such a pleader.⁸

The prosecution made an appeal to the High Court of Punjab that section 540-A should be made applicable in this case, even if the accused did not wish so. But the High Court on 26th July 1929 rejected the plea, stating that counsel cannot be forced upon an accused, without his consent.⁹ It is probably after this rebuttal that the Government of India started making preparation for an amendment in Criminal Procedure Code.

Before the Criminal Law Amendment Bill could be introduced in the Central Legislative Assembly, the political atmosphere of the country was on a boil due to hunger strike of the prisoners. The political prisoners lodged in many jails of India took to hunger strike and the main point of their agitation, i.e., ‘racial discrimination’, became a national issue. When the condition of Jatin Das became critical, the public opinion clamoured for a resolution of the situation before it becomes too late. Rights of political prisoners and racial discrimination in jails became number one agenda of press and platform. 5th August 1929, was observed as political sufferer’s day throughout India.¹⁰ On 6th August, the Government of India issued a communiqué trying to justify its position by citing jail rules.¹¹ This effort of hiding behind the rules and not doing anything to save the lives of prisoners aroused widespread condemnation.¹² On 8th August 1929 Jawahar Lal Nehru met Bhagat Singh and his co-accused in the jail and on 9th August 1929 issued a public statement that many of the hunger-striking prisoners are on the verge of death.¹³ He addressed a massive public meeting on 9th August 1929 at Lahore.¹⁴ On 11th August 1929 the Government of India issued a communiqué requesting the local governments to re-examine, with as little delay as possible, the rules of classification and privileges of the under-trial and convicted prisoners.¹⁵ On 16th August 1929 the Government of Punjab announced formation of Jail Enquiry Committee under presidency of Col. Barber, Inspector General of Prisons, Government of Punjab.¹⁶ A four member sub-committee was carved out of Jail Enquiry Committee to negotiate the terms of agreement with the hunger striking prisoners of Lahore

⁷ The Tribune, Lahore, July 26, 1929, Lahore

⁸ ਈਕ ਓਗਜਲਚਅਕ, ਿਰਗਕ, ਏਚ;ਖ 26, 1929

⁹ The Tribune, Lahore, July 27, 1929

¹⁰ The Tribune, Lahore, August 07, 1929

¹¹ The Tribune, Lahore, August 08, 1929

¹² The Tribune, Lahore, August 08, 1929

¹³ The Tribune, Lahore, August 10, 1929

¹⁴ The Tribune, Lahore, August 11, 1929

¹⁵ The Tribune, Lahore, August 13, 1929

¹⁶ The Tribune, Lahore, August 18, 1929

Conspiracy Case prisoners, on which the hunger strike may be postponed until the announcement of the final decision of the Government on jail reforms.¹⁷ The members of the sub-committee Afzal Haq, Duni Chand, Mehtab Singh and Mohan Lal met the Lahore Conspiracy Case accused on 2nd September 1929. They were informed that during the preliminary discussions the Enquiry Committee had unanimously decided to do away with racial discrimination and recommend classification of prisoners in such a manner that will be favourable for political prisoners. The prisoners gave up hunger strike and the committee issued a statement that keeping in view the sincere desire of the committee and critical condition of Jatin Das the prisoners of Lahore Conspiracy Case had given up the hunger strike on 5 P.M. that day. They expressed the hope that Government will be pleased to release Jatin Das immediately, keeping in view his critical condition.¹⁸ But the Government refused to release Jatin Das unconditionally and stated that he could only be released on bail. Despite the requests of Jail Enquiry Committee to honour the commitments made by them, the Government did not budge.¹⁹ On 4th September 1929 Bhagat Singh, B.K. Dutt, Shiv Verma, A.K. Ghosh, Jatin Sanyal and B.K. Sinha resumed hunger strike.²⁰ They announced that as the Government has failed to fulfill the promises made by the Enquiry Committee they are resuming the hunger strike. They were promised that Jatin Das would be released unconditionally, the Government would issue a statement favoring the interim recommendations of the Enquiry Committee and that all the prisoners of Lahore Conspiracy Case shall be kept in the same jail.²¹

It was on this juncture that the Bill to amend the Criminal Procedure Code was introduced in Central Legislative on 9th September 1929. The Home Member Sir James Crerar while introducing the Bill claimed that the Bill has nothing to do with Hunger Strike of Lahore. But the public in general understood that Bill was not just in response to the hunger strike but a tool to break it. The Bill was thus popularly known as Hunger Strike Bill. On 11th September 1929 a public meeting was held under auspices of City Congress Committee attended by citizens of Lahore. The meeting passed a resolution, that Hunger Strike Bill was worse than Rowlatt Bill and India members of the house were asked to resign their seats if they fail stall this Bill. The resolutions passed were to be handed over to members of Central Legislative.²²

Congress, Nationalists and Independents declared their intention to oppose the Bill. The groups of Mohd. Ali Jinnah, Madan Mohan Malviya and Jaykar too followed the suit.²³ A Correspondent of Associate Press reported that the Government is confident of securing 45 votes in favour of the Bill while 55 members have expressed

¹⁷ The Tribune, Lahore, September 03, 1929

¹⁸ The Tribune, Lahore, August 04, 1929

¹⁹ The Tribune, Lahore, August 05, 1929

²⁰ The Tribune, Lahore, September 05, 1929

²¹ The Tribune, Lahore, September 08, 1929

²² The Tribune, Lahore, September 13, 1929

²³ The Tribune, Lahore, September 12, 1929

their opposition to the Bill. There were half a dozen undecided votes which both sides are canvassing to win over.²⁴

While presenting the Bill, the Home Member Crerar stated that, purpose of the Bill was to amend a lacuna in the Criminal Procedure Code which has been brought to fore by hunger strike of the prisoners of Lahore Conspiracy Case. The lacuna according to him was the potential danger that the process of justice can be halted by the accused if they make themselves incapable of attending the court by their voluntary actions. The Bill proposed to introduce section 540-B in the Criminal Procedure Code whereby the court could be given a right to dispense with the attendance of an accused, who by his voluntary actions, renders himself incapable of attending the court and refuses to be represented by a counsel.²⁵

The debate on the Bill started with N.C. Kelkar moving an amendment that the Bill be circulated for eliciting public and legal opinion.²⁶ This meant a long delay which was not acceptable to treasury benches. K.C. Das a government supporter moved a motion for referring the Bill to a select Committee where government could hope to get the Bill passed sooner than the later. During the debate the treasury benches either argued for the approval of the Bill or to refer it to the select committee. The members opposed to the bill asked for its outright rejection or its circulation to elicit public opinion. The arguments in the house reflect the official as well as public opinion on the questions of hunger strike, revolutionaries and racial discrimination. The arguments for and against the Bill also brought to fore many legal questions.

Arguing in favour of his motion Crerar said that it is a provision of the law, that the accused person must have fair hearing in a fair trial, and for that reason he must be represented either in person or through counsel. "The intention of the present law" he said, "is to give those remedies to the accused. If he voluntarily deprives himself of them, then surely the case bears a different aspect. It is that aspect of the case that I ask the house to deal seriously with"²⁷ He pleaded that in a case like present one where large number of accused face trial the voluntary absence of some accused may stall the trial and deprive the chances of other accused to seek justice. The accused who have not committed heinous crimes stand the chance of acquittal or lesser punishment, are being held on ransom.²⁸ Arguing in the same vein R.S. Sharma argued that such long delay in trial provide opportunity for the accused to intimidate the witnesses.²⁹

Many members who supported the Bill stressed that hunger strike is a trick of the accused to avoid the justice. R.S. Sharma Said "Any government will be failing in its elementary duty, if it allowed the machinery of the administration of law to break down or to be paralysed by the very simple device of an accused by choosing to

²⁴ The Tribune, Lahore, September 13, 1929

²⁵ The Code of Criminal Procedure (Amendmnt) Bill, PP-714

²⁶ The Code of Criminal Procedure (Amendmnt) Bill, PP-716

²⁷ The Code of Criminal Procedure (Amendmnt) Bill, PP-715

²⁸ The Code of Criminal Procedure (Amendmnt) Bill, PP-720

²⁹ The Code of Criminal Procedure (Amendmnt) Bill, PP-739

render it impossible for law to function.” He expressed the fear that today it is revolutionaries tomorrow a gang of robbers will bring the trial to standstill by making themselves incapable of attending the court.³⁰

H.W. Emerson encountered the suggestion given by some opposition members that if some of the accused were on hunger strike the others could be put to trial by splitting the trial. According to him in this trial there was uncertainty regarding the presence of accused and it could not be predicted which accused would be present on which day. One who was present one day might not turn up next day, thus trial could not be split. He also joined the argument with Bhagat Singh and his associates over the definition of ‘Political Prisoner’ as given by them. He read out a passage from a letter written by Bhagat Singh and his comrades wherein they defined the term ‘political prisoners’ in following words, “ By ‘political prisoner’ we mean all those people who were convicted for offences against the state, for instance, the people who were convicted in the Lahore Conspiracy Case, 1915-17 and the Kakori Conspiracy Case and sedition cases in general” Emerson giving the examples from both these cases tried to underline that the convicts were sentenced due to their actions against innocent people during robberies. Their motive for the robbery was claimed to be political but robbery itself was not an act against the state as claimed in the statement. He chided their demands saying “briefly, they amount to this: that no matter how lowly may be the origin of a political prisoner, no matter how humble may be his social status, no matter what atrocities he may commit or what loss of life and property he may inflict on innocent persons, nonetheless, if he is able to prove that his motive was political, he is to be given privileges denied to the ordinary criminal whose crimes are not sanctified with the halo of political motive.”³¹ He said that in England a bill was moved in 1908 and again in 1912 to give facilities to the political prisoners, but made no progress and was not renewed since. Neither the law of England nor the rules of jail administration in India take any account of political motive.³²

E. L. Price Stood up to support the motion of K.C. Roy for select committee. He called the obstruction of justice a trick of prisoners. Recalling the case of Suffergates in England he called it revival of an old feminine, sulky trick in a new form.³³ M. Keane said that “the opposition members have discussed the purely legal merits of this Bill but in reality political issues have dominated their choices. Legally there is not a single thing to be said against the Bill. I feel sympathy with the members of opposition for in face of emotions it is not easy to follow logic alone. The people who are ready to lay down their lives have always commanded the sympathy of their countrymen. The men in street who participate today in the processions of Bhagat Singh day are unable to assess rights and wrongs of the case.” This attitude he called ‘school boy’s attitude’, the attitude of a fanatic or a knave who wanted to fish in troubled waters, but not the attitude that the House should adopt. “If their vote on the issue

³⁰ The Code of Criminal Procedure (Amendment) Bill, PP-736

³¹ The Code of Criminal Procedure (Amendment) Bill, PP-745

³² The Code of Criminal Procedure (Amendment) Bill, PP-746

³³ The Code of Criminal Procedure (Amendment) Bill, PP-786

is regulated by the 'school boy's attitude'", he said, "then I must say that their vote is fraud and a sham. They are not actually voting on the legal merits of the bill."³⁴

The opposition to the Bill started with N.C. Kelkar, when he moved the resolution for circulation of the Bill. He praised the Hunger Strikers for raising a 'first class political question' that too under the hardest jail conditions. He challenged the claims that they were hunger striking to avoid the trial or for selfish motives. On the contrary they were ready to lay their lives for the dignity of political prisoners. According to him the government was responsible for the hunger strike, as it was well aware of deplorable conditions of political prisoners. If the move towards the jail reforms which the government had made now, in face of hunger strike, had been made earlier, the hunger strike would not have been required.³⁵

Abdul Haye supported the motion of Kelkar. He said that under no circumstances judgment can be passed in absence of an accused. Comparing the case of hunger striker with that of an absconder he said that an absconder deliberately and voluntarily avoids the process of law. But government has never asked legislative to pass such a law that would make possible the prosecution of an absconder in his absence. Then what was the point in trying such a person in his absence, who is unable to attend the court due to health issues ?³⁶

Jamnadas Mehta of Congress said that there are ample provisions in the law to deal such a situation but Government is adamant to trample the rights of accused of criminal cases under foot through this Bill. He claimed that in number of other countries the Governments faced similar situations but no such measure was passed.³⁷ He feared that a trial against an accused in his absence was always bound to result in a conviction. In the absence of accused the cross-examination of prosecution witnesses and contradictions of the evidence cannot be challenged. "Government", he said, "are here to demand a power which may lead to conviction and the judicial murder of human beings." He further asked that "If the Europeans can be given a certain³⁸ standard of life, irrespective of whether they have used violence or not, whether they are criminals or not, I cannot understand why the same treatment could not be given to the Indians under trial?" He made a scathing attack on those Indian members of the House who were comparing the hunger strikers with brigands and robbers, saying that, "the whole world is watching whether we are a nation of cowards and sycophants or whether, even in this degraded condition, we have courage to say "No" when occasion demands." And he called upon the house to say "No" in no uncertain terms to the motion of the Government."³⁹

M.A, Jinnah doubted whether it was a trial or a war against the accused, where the Government is adamant to try every possible method to see them either hanged or transported for life and meanwhile make sure, not to treat

³⁴ The Code of Criminal Procedure (Amendment) Bill, PP-798

³⁵ The Code of Criminal Procedure (Amendment) Bill, PP-720, 721, 725

³⁶ The Code of Criminal Procedure (Amendment) Bill, PP-730

³⁷ The Code of Criminal Procedure (Amendment) Bill, PP-740

³⁸ The Code of Criminal Procedure (Amendment) Bill, PP-741

³⁹ The Code of Criminal Procedure (Amendment) Bill, PP-742

them as decent men.⁴⁰ The ex-parte trial, he said, was not a part of the judicial system of any civilized country. He raised the objection that if the accused would not be present in the court how would the witnesses identify them, how the accused would be made to face both oral and documentary evidences brought up against them and how the judge would ask the accused to offer an explanation to the evidences brought against them which was mandatory under section 209 of Criminal Procedure Code. “Whether that will be a trial or a farce?” he asked. He alleged that by this Bill the Government wanted to blackmail the accused in giving up the hunger strike. Confronting the argument repeated by many supporters of the Bill, he said that, ordinary prisoners were not expected to go for hunger strike. “I ask the Honourable the Law Member to realise that it is not everybody who can go on starving himself to death. .. The man who goes on hunger-strike has a soul. He is moved by the soul and he believes in the justice of his cause; he is not an ordinary criminal who is guilty of cold-blooded, sordid, wicked crime.”⁴¹

He claimed that the fundamental doctrine of justice is that “no man is to be condemned until he is given a hearing.⁴² Even in case of contempt of court where law allows the courts to dispense away with presence of accused the judges avoid to put this rule in practice in criminal cases.⁴³ Specially in the cases of such alleged crimes which might lead to harsh punishments like death or transportation for life.

He asserted that such amendments cannot be made on the basis of just one instance, he requested the Government to wait and see if the trend continued. A general law cannot be amended on the basis of just one instance. If the Government was honest and sincere it should go slow and let those outside of this House who are competent to speak, express their opinion. They should remove from your mind the Lahore Conspiracy case. He concluded that the house was not ready to give the power that the Government sought there and then.⁴⁴

Next, he supported the demands put forward by the hunger strikers stating that, “I cannot understand the anxiety of the Government to proceed with this trial when these men are inflicting the greatest possible punishment upon themselves by prolonged fasting? Is it your fault? Does it mean that you are not treating them properly and therefore you are compelling them to resort to these extreme methods?” He requested the Government to give them proper treatment as they were asking for nothing but bare necessities and a little better treatment. He also questioned the claim that the amendment thus made in Criminal Procedure Code would not be implemented retrospectively. He feared that if the Bill was passed and applied to Lahore Conspiracy Case the disability already taken place would also be taken in account and hunger strikers would asked to give up hunger strike under the threat that their presence in the Court would be dispensed with.

⁴⁰ The Code of Criminal Procedure (Amendmnt) Bill, PP-753

⁴¹ The Code of Criminal Procedure (Amendmnt) Bill, PP-755

⁴² The Code of Criminal Procedure (Amendmnt) Bill, PP-758

⁴³ The Code of Criminal Procedure (Amendmnt) Bill, PP-760

⁴⁴ The Code of Criminal Procedure (Amendmnt) Bill, PP-761

“How is it going to work?” he asked the government, “will you give them notice that in view of the fact that this measure is passed, if you are not better within two or three months as you ought to be, then.. your presence will be dispensed with and we shall proceed ex parte? Does it not come to this, thatyou want to have this bill placed on Statute-book and then you want to give notice to the prisoners that, unless they cease their hunger strike within a certain period, you are going to proceed ex parte?⁴⁵ Under that threat you think these prisoners will cease their hunger strike? There is a political aspect to this Bill. I think that the Home Member must admit that this is not a measure which is only brought here for the purpose of putting the law in order.⁴⁶

Motilal Nehru said that Lacuna in the Bill is simply that no such provision is there in any system of Jurisprudence in the world. Same was the problem before the courts of Ireland but it never occurred to anybody⁴⁷ to suggest such a measure. The remedy for such a problem that Government is facing is given in sub-sections 1 & 2 of section 540-A, where it had been provided that in case of inability of the accused to remain before the court, the trial could be split or postponed.⁴⁸ There is no other remedy possible without harming the principles of justice.⁴⁹ He claimed that the Government is worried to conduct the trial only to preserve the form of justice.⁵⁰ Why the formality of trial then? He said that the Government was not ready to recognise the category of political prisoner, while they recognized the classification of prisoners based on the mode of life, level of education and social status etc.⁵¹ The Government gave privileges to the person of status, even if he had committed lowly crimes, but there was no consideration for necessary conveniences of those brave men who were suffering for the rights of others. The Government, he said, was least concerned for their suffering. They just wanted to secure their conviction before they died. The hunger strike, he claimed, would not stop in face of a threat of an ex-parte trial.⁵²

Jayakar declared that it was most extraordinary way to amend a certain lacuna in the system by destroying the very structure and foundation of the system.⁵³ Pointing to the gaps in Bill he said that in Objects and Reasons of the draft it had been stated that, it's intention was to prevent the delay and defeat of justice by the voluntary acts of the accused. But, there was not a single word in this section about the means to recognise whether the accused acted with the intention of delaying the justice or not. The onus of proving that intention must have rested on the prosecution.⁵⁴ He further stated that such measures were not there even in most summary trial in modern jurisprudence, i.e. court martial.⁵⁵ He quoted 'The King's Regulations, Army and Army Reserve, 1928' paragraph 647 that, on each hearing the accused would be examined medically and would not be tried if medical

⁴⁵ The Code of Criminal Procedure (Amendment) Bill, PP-762

⁴⁶ The Code of Criminal Procedure (Amendment) Bill, PP-764

⁴⁷ The Code of Criminal Procedure (Amendment) Bill, PP-773

⁴⁸ The Code of Criminal Procedure (Amendment) Bill, PP-774

⁴⁹ The Code of Criminal Procedure (Amendment) Bill, PP-775

⁵⁰ The Code of Criminal Procedure (Amendment) Bill, PP-776

⁵¹ The Code of Criminal Procedure (Amendment) Bill, PP-780

⁵² The Code of Criminal Procedure (Amendment) Bill, PP-781

⁵³ The Code of Criminal Procedure (Amendment) Bill, PP-788

⁵⁴ The Code of Criminal Procedure (Amendment) Bill, PP-790

⁵⁵ The Code of Criminal Procedure (Amendment) Bill, PP-791

officer found him unfit to undergo the trial. He called it a political instead of a legal Bill. The difficulty to justify the measure he said was the fact that it was based upon a single instance. The intention of the hunger strikers was not the obstruction of the trial. It might be the unintended effect of their behavior. The fight against racial discrimination, he said, was their intention.⁵⁶ The Government was behaving like the Government of Europeans alone. Quoting from the Report of the United Provinces Jail Inquiry Committee, he narrated before the house, the state of glaring racial discrimination in Indian jails,⁵⁷ which, he said, might had been justifiable when English were consolidating their rule in India by racial superiority. But its continuation in the era of political awakening was not acceptable. The Jail Manual and classification rules were just a façade to cover up pure racial discrimination.⁵⁸

While the debate on Hunger Strike Bill was in progress in the Legislative Assembly, Jatin Das passed away on 13th September 1929. The opposition to the Bill was further stiffened by the incident. Government sensed that the Bill could not be carried through and hence took it back without going for a division of votes, on 13th September 1929. The Bill was introduced at such a time when eyes of the nation were concentrated on the deteriorating condition of Jatin Das. The public opinion expressed their solidarity with the demands of revolutionaries through press and platform and the same was responded in the Central Legislative.

In the Legislative Assembly the Government bowed down to the public opinion and withdrew the Bill. Yet in complete disregard to public opinion Viceroy of India used his emergency powers to pass an ordinance under section 72 of Government of India Act of 1919.⁵⁹ A Tribunal of three judges was set up to try and conclude the case by flouting the fundamental condition of criminal justice i.e. the presence of accused.

The accused in Lahore Conspiracy Case were tried and sentenced to various degrees of punishment by the Tribunal. Thus, the Government achieved through ordinance which they could not achieve through the Hunger Strike Bill. The debate on Hunger Strike Bill was one of those glorious occasions when Indian members of Legislative Assembly successfully argued against the treasury benches and stalled a draconian bill. Government claim that hunger strike of the Lahore Conspiracy Case was devised to delay the trial was not bought by the public. What Bhagat Singh wrote in a letter to Viceroy, was undisputedly the conviction of Indian masses, that “the hunger strike was not a step against the trial. We did not suffer all the oppression for such a trivial matter.”⁶⁰

In their arguments about the definition of political prisoners and jail rules, the treasury benches tried to obscure two vivid facts, 1) that jail reforms were long overdue and 2) that there was special treatment for the Europeans no matter what crimes they had committed. But those Indians who commit crimes for impersonal reasons were not given any consideration. The same is true even today in India as members of ruling classes have special

⁵⁶ The Code of Criminal Procedure (Amendment) Bill, PP-793

⁵⁷ The Code of Criminal Procedure (Amendment) Bill, PP-793

⁵⁸ The Code of Criminal Procedure (Amendment) Bill, PP-795

⁵⁹ Noorani A.G., *The Trial of Bhagat Singh Politics of Justice*, Oxford University Press, New Delhi, 1996, P.131

⁶⁰ Noorani A.G., *The Trial of Bhagat Singh Politics of Justice*, Oxford University Press, New Delhi, 1996, P.134

provisions in jails owing to their money and political power. Looking at the question of political prisoners in the communally charged atmosphere of India, as it is today one may wonder whether a rioter can claim the status of political prisoner? The yardstick proposed by the Emerson during the hunger strike debate can guide us today, which says that a crime can qualify to be political if it is directed against the state not against ordinary citizen.

